

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

O'NEIL D. SWANSON, II,

Plaintiff,

v.

CLEARVUE MANAGEMENT,

Defendant.

Case No. 12-12773

Honorable John Corbett O'Meara

**ORDER DENYING PLAINTIFF'S MOTION TO ALTER OR AMEND JUDGMENT
AND/OR FOR RECONSIDERATION**

This matter came before the court on plaintiff O'Neil D. Swanson, II's Motion to Alter or Amend Judgment and/or for Reconsideration. The court allowed defendant ClearVue Management to file a response brief. No oral argument was heard.

BACKGROUND FACTS

After this court entered an order denying Plaintiff's motion to amend his complaint and granting Defendant's motion to dismiss, Plaintiff filed this timely motion for reconsideration. Pursuant to Local Rule 7.1(h)(3),

Generally, and without restricting the court's discretion, the court will not grant motions for rehearing or reconsideration that merely present the same issues ruled upon by the court, either expressly or by reasonable implication. The movant must not only demonstrate a palpable defect by which the court and the parties have been misled but also show that correcting the defect will result in a different disposition of the case.

In his motion for reconsideration, plaintiff Swanson's counsel requests that the court amend its order requiring counsel to pay the costs and attorney fees Defendant incurred in having to file its motion to dismiss and those incurred in having to respond to Plaintiff's futile motion to amend his

complaint. Plaintiff's counsel argues that because someone else drafted the complaint, he should not have to pay the costs of Defendant's motion to dismiss it. However, Plaintiff's counsel has merely presented the same issues ruled upon by the court. No palpable defect misled the court or the parties; therefore, the court must deny the motion for reconsideration to the extent it is based LR 7.1(h)(3).

The court may grant a motion to alter or amend a judgment under Rule 59(e) of the Federal Rules of Civil Procedure in cases of "clear error of law, newly discovered evidence, an intervening change in controlling law, or to prevent manifest injustice." GenCorp., Inc. v. American Int'l Underwriters Co., 178 F.3d 804, 834 (6th Cir. 1999). In this case Plaintiff's counsel has failed to show any of those grounds to alter or amend the judgment.

ORDER

It is hereby **ORDERED** that Plaintiff's motion to alter or amend judgment and/or for reconsideration is **DENIED**.

s/John Corbett O'Meara
United States District Judge

Date: July 19, 2013

I hereby certify that a copy of the foregoing document was served upon counsel of record on this date, July 19, 2013, using the ECF system.

s/William Barkholz
Case Manager